



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 118-00

21 April 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 23 September 1955 for a minority enlistment at age 17. The record reflects that you were advanced to FA (E-2) and served without incident until 12 January 1956 when you were admitted to a naval hospital after being thrown off a motorcycle. Admission x-rays of the lower spine were negative for fractures and you were diagnosed with an acute lumbosacral sprain. You were discharged from treatment and returned to duty on 23 January 1956. Subsequently, you were advanced to FN (E-3).

The record further reflects that on 17 May 1956 you received a nonjudicial punishment (NJP) for disorderly conduct and were awarded seven days of confinement.

You were reported in an unauthorized absence (UA) status on 18 June 1956 and remained absent until 3 July 1956 when you were admitted to an Army hospital following an automobile accident in

which you suffered a concussion, a dislocated coccyx (tailbone), multiple fractures and contusions. You were transferred two days later to a naval hospital.

On 13 August 1956 you were convicted by summary court-martial of the foregoing 15 day period of UA and were sentenced to confinement at hard labor for 20 days and a forfeiture of \$30.

The medical record reflects that on 28 November 1956 you were admitted to the orthopedic service because of tenderness in the area of the coccyx. Physical examination upon admission revealed a marked anterior angulation of the coccyx suggesting a fracture. However, you were transferred to the proctology service because it was felt that you had a pilonidal cyst. You were treated conservatively and your condition improved. On 28 January 1957 you were discharged from treatment and returned to duty because doctors felt that it was inadvisable to perform a coccygectomy at that time. A reevaluation was recommended in six to eight weeks.

On 7 February 1957 you received a second NJP for a brief period of UA of about one day. The record reflects that on 19 March 1957 you were reported UA again and missed ship's movement. However, an entry in the record indicated that you were serving a 30-day sentence in jail on a charge of disorderly conduct.

During the two month period from April to May 1957 you received three more NJPs for two periods of UA totalling about 26 days, failure to make up your bunk, talking in ranks, and shirking duty.

The medical record further reflects that on 13 June 1957 you underwent a coccygectomy. Two weeks after surgery, you were ambulating without difficulty or complaint and were allowed to go on a short period of convalescent leave. However, you were UA following the end of your leave. It was noted upon your return from UA that you were still getting around without difficulty or distress, but complained of persistent pain the coccyx area. It was opined that you would be subjected to occasional intermittent pain, but not to the extent that you would be prevented from performing your duties.

On 5 August 1957 you were convicted by a second summary court-martial of a six day period of UA and a uniform infraction. You were notified on 21 August 1957 that you were being recommended for discharge by reason of unfitness. You were advised of your procedural rights and declined to submit a statement in your own behalf. Thereafter, the commanding officer (CO) of the naval hospital recommended separation given your five NJPs, and two convictions by summary courts-martial. He sated that it was quite evident from the disciplinary actions that you would not conform to acceptable standards of behavior in the future. A

board of officers convened the in the Bureau of Naval Personnel on 6 September 1957 and recommended that you be separated with an undesirable discharge by reason of unfitness. The Chief of Naval Personnel approved the recommendation and you were so discharged on 26 September 1957.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, low test scores, and the fact that it has been more than 42 years since you were discharged. The Board noted your explanation of the circumstances which led to some of your disciplinary actions and contentions to the effect that after the accidents your performance declined, you began getting into trouble and drinking because of the back pain, and that you wanted to be discharged so you could get a doctor who could help you with your back problems. The Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given your record of five NJPs, two summary court-martial convictions, and a civil conviction for disorderly conduct. While the Board was sympathetic to your medical problems, it was not persuaded that these problems mitigated or justified your misconduct. The Board concluded that you were guilty of too much misconduct in only 24 months of service to warrant recharacterization of your discharge to honorable or under honorable conditions. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director